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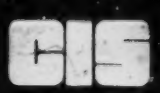

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Calendar No. 472

100TH CONGRESS
1st Session

SENATE

REPORT
100-243

STONES RIVER NATIONAL BATTLEFIELD, TENNESSEE

DECEMBER 9 (legislative day, DECEMBER 8), 1987.—Ordered to be printed

Mr. JOHNSTON, from the Committee on Energy and Natural Resources, submitted the following

REPORT

[To accompany S. 963]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 963) to amend the boundaries of Stones River National Battlefield, Tennessee, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill, do pass.

PURPOSE OF THE MEASURE

The purposes of S. 963 are to expand the boundaries of the historic Stones River National Battlefield in Murfreesboro, Tennessee; to authorize the Secretary of the Interior to acquire a right-of-way and construct a trail from the battlefield to Fortress Rosecrans; and to preserve the existing remnants of the Fortress.

BACKGROUND AND NEED

S. 963 expands the boundaries of the historic Stones River National Battlefield in Murfreesboro, Tennessee, by approximately 53 acres. Stones River National Battlefield is located in Rutherford County, Tennessee, 3 miles northwest of the City of Murfreesboro and 30 miles southeast of Nashville. The battlefield preserves and interprets the scene of the Battle of Stones River fought from December 31, 1862, through January 2, 1863. The battle was noted for its fierce fighting with over 23,000 casualties being inflicted on the Union and Confederate Armies. As a result of this battle, the Union Army was able to solidify its position in Middle Tennessee and set the stage for subsequent campaigns, including Sherman's March to the sea that split the Confederacy in two.

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Originally established as a National Military Park by Act of Congress in 1927, the Stones River National Battlefield was transferred from the War Department to the National Park Service in 1933. In 1960, the designation of the area was changed from a National Military Park to a National Battlefield. The National Park Service presently administers 330 acres of the 3,700-acre battlefield site, with an additional 20 acres located in the adjacent National Cemetery. S. 963 also authorizes the Secretary to enter into a cooperative agreement with the City of Murfreesboro, Tennessee, to develop a trail to link existing battlefield sites with the nearby historic Civil War Fortress Rosecrans, and to preserve existing remnants of the Fortress, if the city agrees to assume all operation and maintenance costs for the trail and Fortress.

LEGISLATIVE HISTORY

S. 963 was introduced by Senator Sasser on April 8, 1987. A hearing was held on this measure before the Public Lands, National Parks and Forests Subcommittee on October 6. The companion measure, H.R. 1994, passed the House on June 29. That measure was placed on the Senate calendar pursuant to Rule XIV.

At a business meeting on December 2, 1987, the Senate Committee on Energy and Natural Resources ordered S. 963, favorably reported.

COMMITTEE RECOMMENDATIONS AND TABULATION OF VOTES

The Senate Committee on Energy and Natural Resources, in open business session on December 2, 1987, by a unanimous vote of a quorum present, recommends that the Senate pass S. 963, as described herein.

The rollcall vote on reporting the measure was 19 yeas, 0 nays as follows:

YEAS	NAYS
Mr. Johnston	
Mr. Bumpers	
Mr. Ford*	
Mr. Metzenbaum	
Mr. Melcher	
Mr. Bradley	
Mr. Bingaman	
Mr. Wirth	
Mr. Fowler	
Mr. Conrad	
Mr. McClure	
Mr. Hatfield	
Mr. Weicker	
Mr. Domenici	
Mr. Wallop	
Mr. Murkowski	
Mr. Nickles	
Mr. Hecht	
Mr. Evans	

*Indicates voted by proxy.

COST AND BUDETARY CONSIDERATIONS

The following estimate of the cost of this measure has been provided by the Congressional Budget Office.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, December 7, 1987.

Hon. J. BENNETT JOHNSON, Jr.,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Dirksen Senate Office Building, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed S. 963, a bill to amend the boundaries of Stones River National Battlefield, Tennessee, and for other purposes, as ordered reported by the Senate Comittee on Energy and Natural Resources, December 2, 1987. Enactment of this bill is expected to result in increased federal outlays of approximately $1 million over fiscal years 1988 and 1989.

Section 1 of this bill would revise the boundaries of the Stones River National Battlefield to include an additional 53 acres. The Secretary of the Interior would be authorized to acquire the new acreage by donation, purchase, or exchange. Based on information obtained from the National Park Service (NPS), CBO estimates that the acquisition of the lands would cost about $440,000.

Section 2 would authorize the Secretary to enter into a cooperative agreement with the city of Murfreesboro, Tennessee. Under the agreement, the Secretary would be directed to acquire land and construct on it a trail linking the battlefield with nearby Fortress Rosecrans. The trail would then be operated and maintained by the city. The Secretary would also be directed to preserve (also pursuant to the agreement) the remnants of the fortress, which the city would also operate and maintain. If an agreement is enacted, acquisition and construction of the trail and the associated preservation of the fortress would probably begin after the acquisition of land under Section 1, probably beginning in fiscal year 1989. Once land and related interests are acquired, trail construction is estimated to cost about $300,000. The NPS has made no estimate of trail or right-of-way acquisition costs at this time. The city of Murfreesboro has estimated such costs at about $200,000.

The cost to the federal government of stabilizing the remnants of Fortress Rosecrans will not be known until the NPS has completed its study of the structure in fiscal year 1988. The study is estimated to cost about $35,000.

Annual costs to the city of Murfreesboro for the operation and maintenance of the trail and fortress cannot be estimated at this time. Most of the costs associated with the fortress, however, would be incurred by the city regardless of federal activities under this bill.

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes,
Sincerely,

EDWARD M. GRAMLICH, *Acting Director.*

REGULATORY IMPACT EVALUATION

In compliance with paragraph 11(b) of Rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 963. The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 963, as reported.

EXECUTIVE COMMUNICATIONS

The pertinent legislative report received by the Committee from the Department of the Interior setting forth executive agency recommendations relating to S. 963 is set forth below:

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, DC, October 5, 1987.

DEAR MR. CHAIRMAN: This responds to your request for our views on S. 963, a bill "To amend the boundaries of Stones River National Battlefield, Tennessee, and for other purposes."

We recommend enactment of S. 963, but only if it is amended to address our concerns, which are outlined below.

Section 1 would authorize the expansion of the boundaries of Stones River National Battlefield, Tennessee, to include approximately 53 acres of land for resource protection purposes. Section 2 of the bill would authorize the Secretary to enter into an agreement with the City of Murfreesboro, Tennessee, under which the Secretary shall acquire and construct a hiker-biker trail to link the national battlefield with Fortress Rosecrans. The city shall operate and maintain the trail in accordance with standards approved by the Secretary. Also, the Secretary shall preserve the existing remnants of Fortress Rosecrans and the city shall operate and maintain the fortress.

Authorized in 1927, the Stones River National Battlefield is the scene of one of the hardest-fought battles of the Civil War. The Battle of Stones River, fought on December 31, 1862, through January 2, 1863, was the first major engagement in the Union's two-year effort to drive a wedge through the Confederacy along railroads running southeastward through Tennessee and Georgia. The forces were about equal in number, but the Confederate Army under General Braxton Bragg failed to halt the advance of the Union Army led by General William S. Rosecrans. Fighting to utter exhaustion, more than 23,000 of the 83,000 combatants fell in the battle, about the same number of casualties as in the Battle of Shiloh. In the end, Murfreesbor was left in the hands of the exhausted Union Army.

While the Battle of Stones River was one of the bloodiest battles of the Civil War, every foot of ground on both sides was stubbornly and bravely contested. As a result, losses on both sides marked this

conflict, with unsurpassed herosim and unyielding valor of the soldiers, whether from the North or the South.

The greater battlefield at Stones River consists of nearly 3,700 acres, about 350 of which were included within the boundaries of the national battlefield and cemetery in 1927 when the battlefield was established. When the national battlefield was established, it was located in a rural setting. However, since that time and, in fact, only since the approval of the park's general management plan in 1980, there has been a dramatic change in land use surrounding the battlefield's boundary. The park's approval general management plan proposed the acquisition of 284 acres in an effort to address resource preservation and interpretation. During 1983, however, this proposal was refined to propose the inclusion of only 83 acres. Since that time, some of that acreage has been lost to other uses, so that only 53 acres of the 83 acres remain available for inclusion and protection within the boundaries of the national battlefield.

The reason for this sharp change is the growth of Murfreesboro, Tennessee. Approximately 3,000 families move into Murfreesboro/Rutherford County annually. Population growth approaches 15 percent each year. The number of building permits for single-family and apartment units has increased from 900 in 1983 to over 2,000 in 1986. This figure is expected to exceed 3,000 this year. For the visitor and for the resources, the historic scene is being diminished.

The approximately 53 acres identified for inclusion within the boundaries of Stones River National battlefield are divided into the following eight areas:

Area 1 contains about 7 acres of wooded land located on the east side of Stones River between the river and Thompson Lane. This is the site of the Confederate charge on the final day of the battle. This tract was recently donated to the Nature Conservancy in anticipation of its inclusion within the boundaries of the battlefield.

Areas 2 and 3 contain approximately 19.57 acres and are located north and east of the artillery monument. They include the historic ground where the combined fire of 57 Union cannons stopped the Confederate attackers on the final day of battle. These tracts also include the historic McFadden house site and cemetery. The land is zoned industrial. Within the last several years, a dump has been installed on an adjacent parcel of land within sight of the artillery monument.

Area 4 contains approximately 0.70 acre and consists of a narrow strip of land paralleling the Seaboard Railroad tract. It was occupied by the Union Army. This stretch of land has attracted industry and commercial development. Acquisition of this narrow strip of land will have a minimal impact on commercial development along U.S. 41, while providing the land necessary for the planting of vegetative screening for the national cemetery, now adversely affected by visual intrusion of commercial development.

Area 5 contains approximately 9 acres and includes the only existing military trenches and earthworks associated with the Battle of Stones River. The rifle pits are located just outside the present boundary of the national battlefield and are now being used as a dump, filled with trash and debris by the owner. The acquisition of

the earthworks would facilitate greatly interpretation as well as preservation of these historically significant features.

Area 6 contains approximately 1.84 acres and comprises a strip of land adjacent to the Hazen Monument (the Nation's oldest memorial to Civil War soldiers) and a small triangle of land across the Old Nashville Highway. Included is a small cemetery with the grave of a black Civil War soldier.

Area 7 contains approximately 14 acres, including a wooded area containing cedar glades, a biological area unique to middle Tennessee. This tract includes the outer perimeter of the cedar glades contained within the park. The dense cedar glades formed an impenetrable barrier that affected the movement of troops during the Battle of Stones River and was frequently referred to in the battle reports of both armies. This acquisition would include the historic ground where a Union soldier, Joe Prentice, earned the Medal of Honor. The actual medal of Joe Prentice, along with his story, currently is interpreted in the visitor center. Acquisition of this area would also permit onsight interpretation of this event. Staff at Stones River National Battlefield has noted recent surveys stakes in this area.

Area 8 contains approximately 0.29 acre and includes the well-preserved foundation of the Blanton House, which served as a field hospital for both armies during the Battle of Stones River. It is located in the backyard of a house built about three years ago; however, the owners are interested in protecting the historic resources.

We estimate that it will cost approximately $440,000 to acquire the 53 acres. We do not anticipate any increase in operating costs associated with the addition of this land. While we support authorization, we must note that budgeting for this acquisition will have to compete with other potential acquisitions and with other demands on the Treasury.

With regard to section 2 of S. 963, we recommend against its enactment. We note that Fortress Rosecrans, a large earthen fortress, is listed in the National Register of Historic Places and has been determined to be of local significance. Further, the City of Murfreesboro used funds from the Land and Water Conservation Fund to purchase land surrounding this fortress to create a city park. Because of its local level of significance and because of the considerable effort that the City of Murfreesboro has already put into this project, we encourage the city to seek funding through State and private sector initiatives. Also, with regard to the proposed trail that would link the national battlefield with Fortress Rosencrans, again we encourage the city to seek funding through State and private sector initiatives. We, of course, could offer technical assistance and advice; but we believe the National Park Service should take direct action only on resources that are included within the primary purpose of the battlefield.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

WILLIAM P. HORN, *Assistant Secretary.*

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of Rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by the bill S. 963, as reported.

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Calendar No. 473

100TH CONGRESS
1st Session

SENATE

REPORT
100-244

PINELANDS NATIONAL RESERVE, NEW JERSEY

DECEMBER 9 (legislative day, DECEMBER 8), 1987.—Ordered to be printed

Mr. JOHNSTON, from the Committee on Energy and Natural Resources, submitted the following

REPORT

[To accompany S. 1165]

The Committee on Energy and Natural Resources to which was referred the bill (S. 1165) to authorize the Secretary of the Interior to provide for the development and operation of a visitor and environmental education center in the Pinelands National Reserve, in the State of New Jersey, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE OF THE MEASURE

The purposes of S. 1165 are: (1) to direct the Secretary of the Interior to develop, in cooperation with the State of New Jersey, an interpretive program for the Pinelands National Reserve including the construction and operation of an environmental education center; and (2) to increase the funding authorization for land acquisition in the Pinelands.

BACKGROUND AND NEED

The National Parks and Recreation Act of 1978 established the Pinelands National Reserve in the State of New Jersey. The Pinelands was the country's first National Reserve, a cooperative management agreement among Federal, State and local governments. It also designated the Pinelands Commission to oversee the management of the Reserve. The Act also authorized $26 million for land acquisition, all of which has been expended.

The Reserve encompasses 1.1 million acres, almost 22 percent of the State of New Jersey. The Pinelands includes a scrub pine

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forest, wetlands, and a variety of plant species, all located in the midst of a highly industrialized area. The Reserve borders both the New Jersey Turnpike and the Garden State Parkway. The Pinelands is a very fragile area whose sandy soils and shallow ground water table are particularly sensitive to industrial pollution. The United Nations has also designated it as an International Biosphere Reserve, a distinction it shares with the Florida Everglades and Yellowstone National Park.

S. 1165 would amend the National Parks and Recreation Act of 1978 by increasing the initial authorization for land acquisition by $21,200,000, and by authorizing the construction and operation of a visitor and environmental educational center. The bill also provides that the Secretary of the Interior, in cooperation with the State, prepare a variety of informational materials for the Reserve.

The bill requires that a plan for the design of the center be completed no later than 12 months after the date of enactment, and authorizes $1 million for preparation of the plan. The center, which is to be located on either donated or State-owned lands, is to be completed within 18 months of the submission of the plan. Five million dollars is authorized for the construction of the center. Consistent with the original Pinelands legislation, Federal funds may be used to provide only 75 percent of the costs of constructing and operating the center.

In acquiring lands within the Pinelands, the Committee expects the State, the Federal Government and the Pinelands Commission to utilize the most cost effective methods available. While this might mean fee acquisition, other more creative alternatives, including land exchanges and the acquisition of less than fee interests, might prove more apppropriate in certain situations. The State and the Pinelands Commission are encouraged to pursue these alternative methods where they will protect the resource and further the purposes of the Reserve.

Legislative History

S. 1165 was introduced by Senators Bradley and Lautenberg on May 7, 1987. A hearing was held before the Subcommittee on Public Lands, National Parks and Forests on October 6, 1987.

At a business meeting on December 2, 1987, the Senate Committee on Energy and Natural Resources ordered S. 1165 favorably reported.

Committee Recommendations and Tabulation of Votes

The Senate Committee on Energy and Natural Resources, in open business session on December 2, 1987, by a unanimous vote of a quorum present recommends that the Senate pass S. 1165, as described herein.

The rollcall vote on reporting the measure was 19 yeas, 0 nays as follows:

YEAS	NAYS
Mr. Johnston	
Mr. Bumpers	
Mr. Ford*	

Mr. Metzenbaum
Mr. Melcher
Mr. Bradley
Mr. Bingaman
Mr. Wirth
Mr. Fowler
Mr. Conrad
Mr. McClure
Mr. Hatfield
Mr. Weicker
Mr. Domenici
Mr. Wallop
Mr. Murkowski
Mr. Nickles
Mr. Hecht
Mr. Evans

*Indicates voted by proxy.

Cost and Budgetary Considerations

The Congressional Budget Office estimate of the costs of this measure has been requested but was not received at the time the report was filed. When the report is available, the Chairman will request it to be printed in the Congressional Record for the advice of the Senate.

Regulatory Impact Evaluation

In compliance with paragraph 11(b) of Rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 1165. The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 1165, as reported.

Executive Communications

The pertinent legislative report received by the Committee from the Department of the Interior setting forth executive agency recommendations relating to S. 1165 is set forth below:

U.S. Department of the Interior,
Office of the Secretary,
Washington, DC, October 16, 1987.

Hon. J. Bennett Johnston,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, DC.

Dear Mr. Chairman: This responds to your request for our views on S. 1165, a bill "To authorize the Secretary of the Interior to provide for the development and operation of a visitor and environ-

mental education center in the Pinelands National Reserve, New Jersey."

We oppose the enactment of S. 1165.

This bill would amend that section of the National Parks and Recreation Act of 1978 which established the Pinelands National Reserve in New Jersey. The Pinelands is in an area of about 1 million acres that was recognized in the 1978 Act as being a nationally significant resource consisting of pine-oak forests, extensive high-quality water resources, and a diversity of rare plant and animal species. The Act provided for a State plan for coordinating and controlling land use by State and local governments. It also authorized 75 percent grants to the State for acquisition of lands that have critical ecological values.

The Governor established a State planning entity as called for in the Act, a plan was developed and approved by the Secretary in 1981, and funds were appropriated and made available to the State for acquisition. Thus far, the State has acquired or will acquire approximately 67,000 acres with the approximately $26 million made available under the authorization in the 1978 Act for acquisition and planning grants. All of the $26 million authorized has been appropriated.

S. 1165 would direct the Secretary of the Interior to develop, in cooperation with the State, an interpretive program for the Pinelands, which must include construction and operation of a visitor and environmental education center. The bill would make available 75 percent of the cost of construction and operation and maintenance of the center from Federal funds. It would authorize appropriations of $1 million for planning, $5 million for construction of the center, and an additional $21.2 million for acquisition grants to the State.

We oppose this bill because the 1978 legislation did not envision a rule for the Federal government involving on-the-ground management and operation of facilities in the Pinelands. Even those provisions of the 1978 legislation that authorized direct Federal acquisition were limited only to the period during the development of the plan. After approval of the plan, the law provides for conveyance of any lands so acquired to the State or local authorities. Thus, S. 1165 departs considerably from the State-Federal relationship established in the original legislation by requiring a National Park Service management presence in the Pinelands.

We believe the State can do an adequate job of interpreting the Pinelands, and we have no objection to providing technical assistance in this regard. We do not believe the National Park Service should assign management personnel needed for units of the National Park System to help the State in on-site interpretation. We do not have the people to spare.

Further, we cannot support the increased funding authorizations in this bill for construction and land acquisition. All Federal agencies need to hold spending down to the most essential projects in light of the need to reduce the deficit. We do not view the development of an interpretive center here as a project that must be done to protect resources. We recommend that the State proceed with whatever additional development and land acquisition it determines to be desirable.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

WILLIAM P. HORN,
Assistant Secretary.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of Rule XXVI of the Standing Rules of the Senate, the Committee notes the following changes in existing law made by the bill as reported (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, and existing law to which no change is proposed is shown in roman):

AN ACT To authorize additional appropriations for the acquisition of lands and interests in lands within the Sawtooth National Recreation Area in Idaho

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE AND TABLE OF CONTENTS

SECTION 1. This Act may be cited as the "National Parks and Recreation Act of 1978".

* * * * * * *

TITLE V—ESTABLISHMENT OF NEW AREAS AND ADDITIONS TO NATIONAL TRAILS SYSTEM

Subtitle A—Parks, Seashores, Etc.

* * * * * * *

PINE BARRENS AREA, NEW JERSEY

SEC. 502. (a) The Congress finds that—

* * * * * * *

(k) There is authorized to be appropriated not to exceed $26 million to carry out the provisions [of this section] *of subsections (a) through (j) of this section.* Not to exceed $3 million shall be available for planning: *Provided,* That any funds not used for planning shall be available for land acquisition; *Provided further,* That $23,000,000 shall be made available for land acquisition, as authorized by this section. Such appropriations may be made from the general fund of the Treasury or from revenues due and payable to the United States under the Outer Continental Shelf Lands Act, as amended, which would otherwise be credited to miscellaneous receipts. *Effective October 1, 1987, in addition to the funds authorized pursuant to this subsection, there are hereby authorized to be appropriated not to exceed $21,200,000 for land acquisition.*

(l)(1)(A) In furtherance of the findings and purposes of this section, and to enhance public education and appreciation of the natural and cultural resources of the Pine Barrens area of New Jersey, the Secretary shall, in cooperation with the planning entity and ap-

propriate departments and agencies of the State of New Jersey, implement an interpretive program for the Reserve.

(B) The program authorized by this subsection shall include—

(i) the preparation of interpretive and informational materials, exhibits, films, lectures, and other devices and educational methods, and making them available, directly and through appropriate offices of the State of New Jersey, to the public; and

(ii) the planning, construction, and operation, in accordance with this subsection, of a visitor and environmental education center and related facilities located in the Reserve.

(2)(A)(i) Within 12 months of the date of enactment of this subsection, the Secretary, with the concurrence of the planning entity and the State of New Jersey, and the cooperation of other public and private entities as may be necessary and appropriate, shall complete a plan and design for the visitor and environmental education center and related facilities.

(ii) The Plan shall—

(I) indicate the location or locations of the center and related facilities;

(II) set forth the method of acquisition, the prospective ownership of the real property on which the center shall be constructed, and the estimated cost of the acquisition, construction, and operation of the center; and

(III) indicate the manner in which the planning entity established pursuant to this section and the State of New Jersey shall participate in the acquisition, construction, and operation of the center.

(iii) The design of the interpretive center shall inlude a provision for an observation facility at an appropriate site, consistent with the relatively primitive nature of the area, to demonstrate the openness and expanse of undeveloped land that characterizes the Pine Barrens region.

(B) Within 18 months of the completion of the plan and design of the center, the Secretary shall substantially complete the construction of the center and related facilities. Notwithstanding any other provision of law, the Secretary may accept the donation of real property and construct the center and related facilities thereon, or the Secretary may construct the center and related facilities on property owned by the State of New Jersey or a political subdivision thereof, as indicated in the plan and design. Federal funds in an amount of 75 percent of the cost shall be available for the construction of the center and related facilities.

(C) The Secretary shall cooperate in the operation and maintenance of the center and related facilities, including the assignment of professional staff of the National Park Service to assist in the interpretation of the Pine Barrens area. Federal funds in the amount of 75 percent of the cost shall be available for operating and maintaining the interpretive center and facilities.

(3) The Secretary may enter into such contracts and agreements with the planning entity, the State of New Jersey, and other public and private entities as may be necessary and appropriate to carry out the authorities and responsibilities of the Secretary under this subsection. There is authorized to be appropriated such sums as may

be necessary to carry out the interpretive program for the Reserve, not to exceed, however—

(A) $1,000,000 for completion of the plan and design for the visitor and interpretive center, pursuant to paragraph (2)(A), and

(B) $5,000,000 for construction of the center, pursuant to paragraph (2)(B) and related facilities and exhibits.

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Calendar No. 474

100TH CONGRESS
1st Session

SENATE

REPORT
100-245

CITY OF ROCKS NATIONAL RESERVE, ID

DECEMBER 9 (legislative day, DECEMBER 8), 1987.—Ordered to be printed

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Mr. JOHNSTON, from the Committee on Energy and Natural Resources, submitted the following

REPORT

[To accompany S. 1335]

The Committee on Energy and Natural Resources, to which was referred the bill (S. 1335) to establish the City of Rocks National Reserve in the State of Idaho, and for other purposes, having considered the same, reports favorably thereon with amendments to the text and recommends that the bill as amended do pass.

The amendments are as follows:

1. On page 1, line 7, after "significant" insert "historical and".
2. On page 2, line 1, delete the first sentence of subsection 2(b) and insert in lieu thereof: "(b) The reserve shall include approximately fourteen thousand three hundred and twenty acres as depicted on the map entitled 'Boundary Map, City of Rocks National Reserve, Idaho numbered P30-80,005 and dated October 1987.".'
3. On page 2, line 22, delete the first sentence of subsection 3(a) and insert in lieu thereof: "SEC. 3(a) To achieve the purposes of this Act, the Secretary, acting through the National Park Service, in cooperation with appropriate State and Federal agencies, local units of government and local residents shall formulate a comprehensive plan for the protection, preservation, and interpretation of the reserve.".
4. On page 3, line 21, delete "Act" and insert "section".
5. On page 3, line 24, delete "until" and insert "units".
6. On page 4, line 14, after "funds" add the following "or appropriated funds,".
7. On page 5, line 17, strike "ninety-day" and insert in lieu thereof "one hundred and eighty-day".

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8. On page 5, line 20, strike "ninety-day" and insert in lieu thereof "one hundred and eighty-day".

9. On page 6, lines 1 through 21, revise subsection (f) to read as follows:

> (f) Nothing in this Act, nor any action taken pursuant thereto, shall constitute or be construed to constitute either an express or implied reservation of water or water right for any purpose. The United States may acquire such water rights as it deems necessary to carry out its responsibilities under this Act pursuant to the substantive and procedural requirements of the laws of the State of Idaho. The transfer of lands to the administrative jurisdiction of the Secretary pursuant to section 3 shall not affect any reserved water right which the United States may have acquired for the primary purposes for which such lands were originally withdrawn to the extent such rights are consistent with the purposes for which such lands are to be administered pursuant to this Act.

10. On page 6, after line 21, add the following new subsection and renumber accordingly:

> (g) Subject to valid existing rights, Federal lands and interests therein, within the reserve, are hereby withdrawn from disposition under the public land laws and from entry or appropriation under the mining laws of the United States, from the operation of the mineral leasing laws of the United States, and from operation of the Geothermal Steam Act of 1970, as amended.

Purpose of the Measure

The purpose of S. 1335 is to establish the City of Rocks National Reserve in the State of Idaho.

Background and Need

The City of Rocks is a collection of cathedrals, towers, bathtubs and cones rising out of high desert country. One of the 630-foot-tall Twin Sisters is a spire 2½ billion years old. Prehistoric people are believed to have lived among the strange formations in the Albion Mountains of Southern Idaho.

In more recent times, early pioneers were constantly searching for new travel routes, avoiding menacing barriers such as the Salt Desert, the Great Salt Lake, and the marshes along the upper Raft River. City of Rocks, sometimes called Silent City of Rocks, owes much of its historical significance to the proximity of these historic routes. The first practicable route to California north of the Great Salt Lake passed directly through the City of Rocks area.

The City of Rocks area provided immigrants with a passage around the hazardous marshes on the upper Raft River, as well as good campsites, water, and pasturage for their animals. Their arrival at City of Rocks was usually an occasion for rest and a respite from an arduous journey. As the pioneers climbed among the unusual rock formations, they recorded their names on the eroded granite faces. In time these rocks became covered with the names of earlier travelers. Members of the wagon trains not only added their names to the roster, but searched the rocks for the names of relatives and friends who had preceded them westward.

Because of vandalism and other damage to the cultural resources, as well as the declining condition of the remnant stage line station and homestead buildings, Senate Report No. 99-141 directed the National Park Service to study the feasibility of several management alternatives for the City of Rocks area, including management by the Forest Service, the Bureau of Land Management, the National Park Service, by the State or local units of government, or a combination of these entities. The study was completed with the active participation of these agencies and governmental units. All of the alternatives emphasize protection and public use of an area the boundary of which was mutually agreed upon by all study participants.

The national reserve concept—developed by the Congress for Ice Age Scientific Reserve in Wisconsin and the Ebey's Landing National Historical Reserve in the State of Washington—is based on the idea that the protection of a particular area will be accomplished through a partnership between State and Federal governments. The Committee believes that the national reserve designation, with State and Federal cooperation, is appropriate for the City of Rocks area.

Legislative History

S. 1335 was introduced by Senators McClure and Symms on June 5, 1987. A field hearing was held in Burley, Idaho on August 18, 1987, by the Subcommittee on Public Lands, National Parks and Forests. A hearing before the Subcommittee was held in Washington, D.C. on October 20, 1987.

At a business meeting on December 2, 1987, the Senate Committee on Energy and Natural Resources ordered S. 1335, as amended, favorably reported.

Committee Recommendations and Tabulation of Votes

The Senate Committee on Energy and Natural Resources, in open business session on December 2, 1987, by a unanimous vote of a quorum present recommends that the Senate pass S. 1335, if amended, as described herein.

The rollcall vote on reporting the measure was 17 yeas, 0 nays as follows:

YEAS	NAYS
Mr. Johnston	
Mr. Ford *	
Mr. Melcher	
Mr. Bradley *	
Mr. Bingaman *	
Mr. Wirth	
Mr. Fowler *	
Mr. Conrad *	
Mr. McClure	
Mr. Hatfield	
Mr. Weicker	
Mr. Domenici	
Mr. Wallop	
Mr. Murkowski	
Mr. Nickles	
Mr. Hecht	
Mr. Evans	

* Indicates voted by proxy.

Committee Amendments

During the consideration of S. 1335, the Committee adopted several amendments, many of them technical and clarifying. Substantive changes adopted by the Committee include (1) the inclusion of an appropriate map reference depicting the boundary of the reserve; (2) clarification of the Secretary's land acquisition authority; (3) new language regarding Federal reserved water rights; and (4) the withdrawal of the Federal lands within the reserve from disposition under the public land laws, appropriation under the mining laws, and operation under mineral leasing laws and the Geothermal Steam Act.

Section-by-Section Analysis

Section 1 is self-explanatory.

Section 2 sets forth the purposes and management objectives for the reserve; references an appropriate map for the area; and directs that the Secretary file a legal description of the reserve boundary with the appropriate congressional committees.

Section 3, subsections (a), (b), and (c) direct the Secretary, in consultation with the State and units of local government, to formulate a comprehensive plan for the protection, preservation and management of the reserve. The plan is to be transmitted to the Congress and the Governor of Idaho. If, after the plan is prepared, the Secretary determines that the State and units of the local government, as appropriate, have enacted ordinances or adopted regulations consistent with the plan which will protect and preserve the historic and natural features of the reserve, then he shall:

(1) transfer management and administrative jurisdiction over all or a part of the reserve to the State or appropriate unit of local government;

(2) to provide technical assistance in the management, protection, and interpretation of the area; and

(3) make grants to the State or unit of local government for up to 50 percent of the costs of the operation and maintenance of the reserve.

Section 3(d) outlines the Secretary's land acquisition authority within the reserve. Acquisition by donation, exchange, or purchase from a willing seller are permitted. The Committee expects the lands owned by the State or a political subdivision thereof will be acquired only by donation or exchange.

This subsection also includes provisions transferring Forest Service and Bureau of Land Management lands within the reserve to the Secretary of the Interior for administration by the National Park Service as part of the reserve. The reserve is to be administered in accordance with the specific provisions of this ac nd the 1916 National Park Service Organic Act so long as the r erve is administered by the Secretary.

Subsection 3(e) provides a mechanism whereby the Secretary can re-assert management and administrative authority over the reserve if he determines, after transferring the management of the reserve to the State or local government unit, that these entities are not managing the reserve in a manner consistent with the purposes of the act.

Subsection 3(f) deals with Federal reserved water rights.

The bill as introduced had expressly reserved such water rights to the United States as may be necessary to carry out the purposes of the Act with respect to all lands withdrawn from the public domain for the reserve. Section 4 was changed to state that no Federal reserved water right is established either expressly or by implication by this Act. The Director of the State Department of Water Resources and the Attorney General of the State have stated that a creation of a Federal reserved right would complicate efforts to determine water rights in the Snake River Basin and in the monument as established and is not needed. However, the Secretary may acquire water rights pursuant to the substantive and procedural requirements of State law. The legislation contemplates that the State or another political subdivision will administer the area. The amendment does not affect any reserved water right which the United States may have acquired for the primary purposes for which lands were originally withdrawn to the extent such rights are consistent with the purposes of this Act.

During consideration of this section of the bill the following colloquy occurred between Senator McClure and Senator Wirth:

> Senator MCCLURE. And I think the discussion is legitimate. I think it needs to be undertaken.
>
> I think there also needs to be careful understanding of the differences of legislative language. There are some people who have been afraid that the New Mexico language was precedent, or that the Idaho language is a precedent.
>
> The only precedent I am seeking to establish, frankly, is a clear statement that in each piece of legislation, what is intended with respect to that particular unit, and it is not intended to be language to be universally applied to every future designation of public lands.

Senator WIRTH. I think that is an extremely fair statement. As you know, Mr. Chairman, this issue has been a very contentious one, as we have approached what is going to happen with various national park designations, wilderness designations, both on Forest Service land and in the future on BLM land.

And maybe we cannot work it out case by case. But with the understanding that we all agree on what the Senator from Idaho has said about this not setting precedents for other situations, it is only a designation related to that area alone, and that we would all argue that this is not a precedent.

I mean, what you do in Idaho may not be relevant to our situation in Colorado, or to Senator Bingaman's situation, or to Senator Domenici's situation in New Mexico, and that is extremely important.

Senator MCCLURE. Exactly.

Senator WIRTH. With that as an understanding, and if we could have that loud and clear in the report language, and that we would all count on that if any further discussions come up, then I would be very happy to go along with what the Senator is pointing out.

I think that is a very fair way of pointing it out, and I thank the Senator.

Senator MCCLURE. Well, I thank the Senator for his statement.

The thing I think should be understood in connection with this, the treatment of water and the impact of a designation upon the allocation of water within the State is a special condition of every land transaction involving the Federal Government, just as the boundaries, acreage and the special use provisions for other aspects of that land are also unique to a specific area.

And I think it has to be looked at on a case-by-case basis, as every other part of that legislation dealing with that land is a specific and special decision with respect to that land, and those resources.

Senator WIRTH. I appreciate that, and if we can proceed on the assumption that we have got an Idaho solution to an Idaho problem, and a New Mexico solution to a New Mexico problem, and a Colorado solution to a Colorado problem, it seems to me that then allows us the kind of flexibility to move ahead and do this case by case.

Senator MCCLURE. And you may even have different solutions for different tracts.

Senator WIRTH. Absolutely. That is just fine. Thank you very much. Thank you, Mr. Chairman.

The Committee agrees with the intent of this provision as expressed by Senators McClure and Wirth.

Subsection 3(g) withdraws the Federal lands from disposition under the public land laws, appropriation under the mining laws

and operation of the mineral leasing laws and the Geothermal Steam Act.

Subsection 3(h) authorizes the appropriation of $2 million to carry out the purposes of the act.

Cost and Budgetary Considerations

The Congressional Budget Office estimate of the costs of this measure has been requested but was not received at the time the report was filed. When the report is available, the Chairman will request it to be printed in the Congressional Record for the advice of the Senate.

Regulatory Impact Evaluation

In compliance with paragraph 11(b) of Rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out S. 1335. The bill is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of S. 1335, as reported.

Executive Communications

On September 30, 1987, the Committee on Energy and Natural Resources requested legislative reports from the Departments of the Interior and Agriculture and the Office of Management and Budget setting forth executive views on S. 1335. The report from the Department of the Interior had not been received at the time the report on S. 1335 was filed. When the report become available, the chairman will request that it be printed in the Congressional Record for the advice of the Senate.

The report from the Department of Agriculture follows:

Department of Agriculture,
Office of the Secretary,
Washington, DC, November 25, 1987.

Hon. J. Bennett Johnston,
Chairman, Committee on Energy and Natural Resources,
U.S. Senate, Washington, DC.

Dear Mr. Chairman: This is in reply to your request for the views of this Department regarding S. 1335, a bill "To establish the City of Rocks National Reserve in the State of Idaho, and for other purposes."

The Department of Agriculture recommends that S. 1335 not be enacted unless amended as we suggest.

S. 1335 would establish a 10,320-acre City of Rocks National Reserve to preserve and protect cultural resources, manage recreational use, protect and maintain scenic quality, and interpret the nationally significant values of the Reserve. The Secretary of the Interior, in cooperation with the appropriate State agencies and local units of general government, would formulate a comprehen-

sive plan for the protection, preservation, and interpretation of the Reserve. Lands and waters administered by the Forest Service and the Bureau of Land Management would be transferred to the jurisdiction of the National Park Service. If certain conditions are met, the Secretary of the Interior would transfer management and administration of acquired lands to the State of Idaho or other appropriate units of local government.

In 1984, the Forest Service was instrumental in establishing an interagency management group for the City of Rocks. This group includes the Bureau of Land Management, Cassia County, the Forest Service, and the State of Idaho Departments of Fish and Game and Parks and Recreation. We have aggressively pursued the development of a Memorandum of Agreement among those agencies to combine efforts to protect and maintain the area and develop a comprehensive management plan. As a result, over the past 2 years, a great deal of on-the-ground work has been accomplished. Working together, accomplishments have included signing, stationing of a seasonal "ranger" at the City, sanitation facilities, publication of the City of Rocks public information handout, and numerous resource improvement projects.

The Sawtooth National Forest Land and Resource Management Plan proposes that the National Forest lands within the City of Rocks be designated as a Special Interest Area. Under this designation, the National Forest lands would be managed for their special historic, geologic, recreational and botanical values. In addition, the Plan also directs continued participation with other agencies in the coordinated management and protection of this area.

Consequently, the Department of Agriculture supports the concept of designating the City of Rocks as a National Reserve. However, we recommend that S. 1335 be amended to designate either the Bureau of Land Management or the Forest Service as the "lead agency" in management and protection of this area. Giving the lead responsibility to either agency would provide stability, continuity, and a local perspective.

The bill should also be amended to recognize and encourage the existing jurisdictional responsibilities and the partnerships that have been developed to manage the area. We are confident that the partnership approach provides an adequate and appropriate mechanism for cooperative management. Continuation of this approach would be far less expensive than designating another Federal agency to manage the entire area.

We support the provisions of S. 1335 that would require the development of a comprehensive management plan for the City of Rocks. Again, however, we recommend that the bill be amended to accomplish the planning under the concept of a lead Federal agency, in cooperation and coordination with the other entities in the existing interagency group.

S. 1335 should be amended to delete the provision for transferring management and administration of Federal lands to the State or other units of local government. Under the lead agency concept of coordinated management that we recommend, such transfers would be unnecessary.

We recommend a slight modification to the boundary of the Reserve in the northwest corner. This boundary adjustment would

insure that there is no conflict between the various uses of the road and management of the Reserve. It would also result in a more readily definable boundary.

Based on our knowledge of this area, and our experience in planning and managing other areas of national significance and similar complexity, the Forest Service should be an active participant in any administrative structure that is eventually established for the City of Rocks.

In summary, we support the concept of a National Reserve designation for the City of Rocks. We recommend that S. 1335 be amended to recognize the existing management structure as defined by the Memorandum of Understanding. We also recommend that a "lead agency" by established to coordinate planning and management.

The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

PETER C. MYERS,
Acting Secretary.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of Rule XXVI of the Standing Rules of the Senate, the Committee notes that no changes in existing law are made by the bill S. 1335, as reported.

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